

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

TODD MICHAEL TOMASELLA
Plaintiff,

v.

**DIVISION OF CHILD SUPPORT, ET
AL;**
Defendants.

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Case No. 3:20-cv-00476-S-BH

JUDGE BLAIR’S FIRST AMENDED MOTION TO DISMISS

TO THE HONORABLE KAREN GREN SCHOLER:

NOW COMES Defendant Judge Casey Blair (“Judge Blair”), by and through the undersigned Assistant Attorney General, and files this First Amended Motion to Dismiss, and respectfully shows the Court as follows:

**I.
INTRODUCTION**

Todd Tomasella (“Plaintiff”) filed a First Amended Complaint naming Judge Blair *in his individual capacity only* as defendant. (Doc. 60, p. 1, ¶ 2). Plaintiff’s claims against Judge Blair are entirely based on Judge Blair’s judicial decisions in a state court child support proceeding against Plaintiff. (Doc. 60). Plaintiff claims a violation of his rights under the U.S. Constitution, state torts, and apparently the suggestion of a RICO violation. (Doc. 60). The vehicle for vindication of constitutional guarantees is 42 U.S.C. § 1983. (Doc. 60, p. 1, ¶ 2).

Judge Blair asks this Court to take judicial notice of the fact that Plaintiff has previously brought a lawsuit against Judge Blair and the other defendants regarding this

matter, and that lawsuit was dismissed because it was barred by the *Rooker-Feldman* doctrine. *Tomasella v. Div. of Child Support*, No. 3:19-CV-771-N-BN, 2019 WL 2165744, at *2 (N.D. Tex. Apr. 29, 2019) (Tomasella’s claims, rooted in state family court proceedings, implicate the *Rooker-Feldman* doctrine and , *report and recommendation adopted*, No. 3:19-CV-771-N, 2019 WL 2161856 (N.D. Tex. May 17, 2019) Indeed, despite Plaintiff’s efforts to argue otherwise, “None of these assertions change the conclusion that this lawsuit is barred by the *Rooker-Feldman* doctrine.” *Id.*, at *4.

II. BRIEF IN SUPPORT

As more fully set forth in its attached Brief in Support of Judge Blair’s Motion to Dismiss, Judge Blair contends the following:

1. Plaintiff’s claims against Judge Blair must be dismissed because Plaintiff lacks standing to bring Claims against Judge Blair;
2. Plaintiff’s claims against Judge Blair must be dismissed because they are barred by Judicial Immunity;
3. Plaintiff’s claims against Judge Blair must be dismissed because they are barred by the *Rooker-Feldman* Doctrine, as they are inextricably intertwined with state court child support judgments;
4. Alternatively, Plaintiff’s claims against Judge Blair must be dismissed because they are barred by the *Younger* abstention Doctrine, to the extent that they seek to interfere with ongoing state court child support enforcement proceedings; and

5. Plaintiff fails to state a claim against Judge Blair on which relief can be granted in that Plaintiff's claims are barred by limitations, neither equitable nor monetary relief is available against Judge Blair, and Plaintiff has not alleged facts to meet all essential elements of a *prima facie* case under any theory of liability, nor has he alleged facts from which this Court could infer liability on Judge Blair.

III. CONCLUSION

This Court should dismiss Plaintiff's claims against Judge Blair as described hereinabove. The claims in this litigation are frivolous, jurisdictional barriers prohibit Plaintiff's suit, Judge Blair has Judicial Immunity to Plaintiff's claims, and Plaintiff has failed to state a claim on which relief may be granted.

WHEREFORE, Defendant Judge Blair prays that Plaintiff takes nothing by his suit.

Respectfully submitted,

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*ATTORNEYS FOR DEFENDANT JUDGE CASEY
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CERTIFICATE OF SERVICE

I certify that a copy of the above *Judge Blair's First Amended Motion to Dismiss* was served on the **12th day of January 2021**, upon all parties who have entered an appearance, using the CM/ECF system and upon the following individual by Certified Mail, Return Receipt Requested and via regular mail:

Todd Michael Tomasella
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